

## Request for Reconsideration after Final Action

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<b>MARK SECTION</b>	
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<b>STANDARD CHARACTERS</b>	NO
<b>USPTO-GENERATED IMAGE</b>	NO
<b>ARGUMENT(S)</b>	
Please see the actual argument text attached within the Evidence section.	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
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<b>DESCRIPTION OF EVIDENCE FILE</b>	argument, declaration, third party registrations, advertising, marketing, and sales material
<b>CORRESPONDENCE SECTION</b>	
<b>ORIGINAL ADDRESS</b>	Timothy M. Kenny Fulbright & Jaworski L.L.P. 98 San Jacinto Boulevard, Suite 1100 c/o Trademark Docketing Dept. Austin Texas (TX) US 78701-4255
<b>NEW CORRESPONDENCE SECTION</b>	
<b>NAME</b>	Timothy M. Kenny
<b>FIRM NAME</b>	Norton Rose Fulbright US LLP
<b>DOCKET/REFERENCE NUMBER</b>	PREV.T0015US.AP1
<b>INTERNAL ADDRESS</b>	c/o Trademark Docketing Dept.
<b>STREET</b>	98 San Jacinto Boulevard, Suite 1100

<b>CITY</b>	Austin
<b>STATE</b>	Texas
<b>ZIP/POSTAL CODE</b>	78701-4255
<b>COUNTRY</b>	United States
<b>PHONE</b>	612.321.2800
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<b>EMAIL</b>	mnipdocket@nortonrosefulbright.com
<b>AUTHORIZED EMAIL COMMUNICATION</b>	Yes
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Shelby Knutson Bruce/
<b>SIGNATORY'S NAME</b>	Shelby Knutson Bruce
<b>SIGNATORY'S POSITION</b>	Attorney of Record, Minnesota Bar Member
<b>DATE SIGNED</b>	08/03/2015
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Aug 03 20:00:44 EDT 2015
<b>TEAS STAMP</b>	USPTO/RFR-65.205.80.166-2 0150803200044698673-78694 721-5406b7462162c24f1314d e7f8e898b98f6b9768c414de3 aa2493acb8392b244ad-N/A-N /A-20150803194419413629

## Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **78694721** (Stylized and/or with Design, see <http://tmng->

al.uspto.gov/resting2/api/img/78694721/large) has been amended as follows:

## **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

Please see the actual argument text attached within the Evidence section.

## **EVIDENCE**

Evidence in the nature of argument, declaration, third party registrations, advertising, marketing, and sales material has been attached.

**Original PDF file:**

[evi\\_6520580166-20150803194419413629\\_. Reconsideration.pdf](#)

**Converted PDF file(s)** ( 19 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

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[Evidence-13](#)

[Evidence-14](#)

[Evidence-15](#)

[Evidence-16](#)

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[Evidence-18](#)

[Evidence-19](#)

**Original PDF file:**

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**Converted PDF file(s)** ( 10 pages)

[Evidence-1](#)

[Evidence-2](#)

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[Evidence-4](#)

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[Evidence-7](#)

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[Evidence-9](#)

[Evidence-10](#)

**Original PDF file:**

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[Evidence-49](#)

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[Evidence-51](#)

## **CORRESPONDENCE ADDRESS CHANGE**

Applicant proposes to amend the following:

### **Current:**

Timothy M. Kenny  
Fulbright & Jaworski L.L.P.  
98 San Jacinto Boulevard, Suite 1100  
c/o Trademark Docketing Dept.  
Austin  
Texas (TX)  
US  
78701-4255

### **Proposed:**

Timothy M. Kenny of Norton Rose Fulbright US LLP, having an address of  
c/o Trademark Docketing Dept. 98 San Jacinto Boulevard, Suite 1100 Austin, Texas 78701-4255  
United States  
mnipdocket@nortonrosefulbright.com  
612.321.2800  
512.536.4598  
The docket/reference number is PREV.T0015US.AP1 .

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /Shelby Knutson Bruce/ Date: 08/03/2015  
Signatory's Name: Shelby Knutson Bruce  
Signatory's Position: Attorney of Record, Minnesota Bar Member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: Timothy M. Kenny  
Norton Rose Fulbright US LLP

c/o Trademark Docketing Dept.  
98 San Jacinto Boulevard, Suite 1100  
Austin, Texas 78701-4255

Serial Number: 78694721

Internet Transmission Date: Mon Aug 03 20:00:44 EDT 2015

TEAS Stamp: USPTO/RFR-65.205.80.166-2015080320004469

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### **REQUEST FOR RECONSIDERATION**

Applicant has submitted its Application Serial No. 78/694,721 for its distinctive color Magenta mark as applied to disposable latex and synthetic protective gloves for laboratory, industrial, and law enforcement use, disposable latex and synthetic protective gloves for medical, dental, and veterinary use, and disposable latex and synthetic protective gloves for use in the food service industry and for general use (“Applicant’s Mark”).<sup>1</sup>

On February 1, 2015, the Examining Attorney issued a Final Office Action, refusing Applicant’s Mark as based on (1) the alleged failure of Applicant’s Mark to function as a trademark; and (2) the alleged insufficiency of Applicant’s Section 2(f) evidence. For the reasons below, Applicant respectfully disagrees that Applicant’s Mark fails to function as a trademark and asserts that Applicant’s Mark has acquired distinctiveness.<sup>2</sup> Applicant has filed a Notice of Appeal in connection with this Request for Reconsideration, but respectfully requests that the Examining Attorney reconsider her position, withdraw the refusal to register Applicant’s Mark, and issue a Notice of Publication.

Applicant respectfully requests that the refusal be withdrawn because: (1) Applicant’s Mark is not an ornamental or decorative feature of Applicant’s goods but rather serves as a source identifier, as Applicant’s Mark has nothing to do with the aesthetics of the gloves; and (2)

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<sup>1</sup> Applicant filed the instant application on August 17, 2005. Subsequent Office Actions were issued on March 14, 2006, May 17, 2007, April 11, 2008, February 4, 2013 and Applicant responded to each of these Office Actions. This application was suspended on October 9, 2013 pending a cancellation proceeding filed by Applicant against U.S. Registration No. 3,172,669. This cancellation proceeding was concluded, and the registrant of Registration No. 3,172,669 consented to the registration of the instant application. The Examining Attorney issued a Final Office Action on February 1, 2015 refusing the instant application.

<sup>2</sup> The February 1, 2015 Office Action refers to the grounds of refusal of Applicant’s Mark as merely an ornamental or decorative feature of the goods and because Applicant’s Section 2(f) claim was insufficient. The Office Action did not contain any grounds of refusal based on functionality and there is no basis to suggest that Applicant’s Mark is functional.

Applicant's Mark has acquired distinctiveness through substantially exclusive and continuous use of the mark in commerce for 11 years, promotion of the mark through "look for" advertising and promotional efforts, extensive sales efforts with more than 1,500 customers, extensive face to face sales, and advertising and promotional activities, and other circumstantial evidence of distinctiveness and customer declarations. The acquired distinctiveness of Applicant's Mark has also been established by competitors' acknowledgement that Applicant's Mark is a distinctive source identifier. Accordingly, Applicant respectfully requests that the Examining Attorney withdraw the refusal to register Applicant's Mark and permit the application to proceed to publication.

**I. Applicant's Mark is Not Merely Ornamental or Decorative**

A merely ornamental or decorative feature of a product does not function as a trademark. *See* TMEP § 1202.03. However, "[m]atter that serves primarily as a source indicator, either inherently or as a result of acquired distinctiveness, and that is only incidentally ornamental or decorative, can be registered as a trademark." *Id.* (citing *In re Soccer Sport Supply Co., Inc.*, 507 F.2d 1400, 184 USPQ 345 (CCPA 1975); *In re Paramount Pictures Corp.*, 213 USPQ 1111 (TTAB 1982)). Even assuming that Applicant's Mark is ornamental or decorative, which Applicant strongly disputes, Applicant can establish that Applicant's Mark "has acquired distinctiveness as a mark in relation to the goods," such that it should be registered on the Principal Register. TMEP § 1202.03(d). While a single color applied to a product in a specific and arbitrary fashion may be perceived (at least initially) as an ornamental feature of the goods, such color can, and does, function as a mark if perceived by the relevant purchasing public to identify or distinguish the particular goods. *See* TMEP § 1202.05; *see also Wal-Mart Stores*,

*Inc. v. Samara Brothers, Inc.*, 529 U.S. 205, 211-12 (2000) (recognizing that color marks are capable of acquiring distinctiveness).

In determining whether ornamental matter is registrable, the Examining Attorney should consider each of the following factors: 1) the commercial impression of the mark, 2) the relevant trade practices, and 3) evidence of distinctiveness. *See* TMEP § 1202.03.

**1. The Commercial Impression of Applicant's Mark is that of a Trademark**

Since its adoption, Applicant has intended for Applicant's Mark to be – and Applicant's Mark has consistently appeared as – a trademark and not as a mere ornamental or decorative feature of Applicant's protective gloves. When weighing the commercial impression of the proposed mark as it appears in the drawing, the significance of the proposed mark must be considered. TMEP § 1202.03(a). Applicant's Mark was chosen and adopted specifically to serve as a source identifier when used in connection with Applicant's goods. In 2004, Applicant chose a color that was highly distinctive, unique, and not a primary color or standard color for gloves in the industry. Significantly, Applicant intended, from the very beginning for Applicant's Mark to serve as a source identifier so it chose a unique color that was not in use by any other protective glove manufacturer in the industry. *See* Declaration of Anil Segat ¶¶ 7-8. Applicant has continuously and exclusively used its color Magenta mark as a trademark since then.

Applicant has always claimed trademark rights in Applicant's Mark and has put trademark notices on the packaging for its protective gloves clearly claiming the color Magenta as a trademark since 2004. Decl. Anil Segat at ¶ 9. Furthermore, Applicant has specifically promoted Applicant's Mark as a trademark through “look for” advertising and more than 400 face-to-face sales meetings and hundreds of thousands of sales phone calls, wherein Applicant

specifically communicated to its customers and prospective purchasers that the color Magenta indicated that the protective gloves were from Preventive Care. Decl. Anil Segat at ¶¶ 25, 34-35, 39-40. In stark contrast, promotional materials for standard colors in the industry, such as blue and white, and including the evidence provided by the Examining Attorney in the Office Action do not specifically promote the colors contained on the gloves as a trademark.

Moreover, Applicant has consistently used and reinforced its distinctive Magenta color as a source identifier on its packaging, letter head, email correspondence, and advertising materials in a way that has consistently communicated that the color Magenta indicates that the goods or services originate from Applicant.

Relevant purchasers view the overall commercial impression of Applicant's Mark as that of a trademark. As discussed below, through the declaration of Applicant's President, Applicant has submitted two declarations of purchasers of its goods *from 2007*. See Decl. Anil Segat ¶ 53; Declaration Exhibit L. Each of these declarants has provided statements that the declarants view Applicant's Mark as a trademark. *Id.*

Lastly, the fact that others in the protective glove industry use non-standard colors as source-identifiers for gloves (and several entities own U.S. trademark registrations and/or claim common law trademark rights in the same) further reinforces the fact that the relevant purchasers will view Applicant's Mark as a trademark. Given this industry custom, and particularly given the fact that the majority of the purchasers of Applicant's products are knowledgeable and educated about the protective glove market and its customs, the relevant purchasers view non-standard colors in use on protective gloves as a trademark rather than being a merely decorative feature of the goods.

In light of the above, the commercial impression of Applicant's Mark is that of a trademark and source identifier (rather than a merely ornamental or decorative feature of Applicant's gloves), which strongly supports Applicant's position that the mark, as it appears in the drawing, is not merely ornamental.

Therefore, Applicant respectfully requests that the ornamentation refusal be withdrawn.

**2. The Common Practice of Using Non-Standard Colors as A Source-Indicator in Applicant's Industry Favors a Finding that Applicant's Mark is Not Merely Ornamental or Decorative**

Significantly, looking at the second factor, the Examining Attorney should consider whether the proposed mark is "unique or unusual" in relation to the common practice in the Applicant's particular field or industry, as such marks are more likely to be perceived as trademarks. *See* TMEP § 1202.03(b); *See In re Todd Co.*, 290 F.2d 597, 599-600, 129 USPQ 408, 410 (C.C.P.A. 1961) (holding that repeating pattern of green lines, used to cover the entire back surface of safety paper products (e.g., checks), was registrable on the Supplemental Register for safety paper products, where the record showed that it had long been the practice in the industry to use distinctive overall surface designs to indicate origin of the products).

In the February 4, 2013 Office Action, the Examining Attorney noted that there is "widespread use of various colors for medical examination gloves." While Applicant acknowledges that other colors other than its unique Magenta color are used in connection with medical and protective gloves, Applicant submits that the mere fact that there are other colored gloves in the industry does not preclude a finding that Applicant's Mark serves a source identifying function.

The colors green, blue, white and nude for gloves are standard colors in Applicant's industry and are not used as source identifiers. Decl. Anil Segat ¶ 12. In contrast, glove manufacturers that use non-standard colors have long used those non-standard colors as a source-identifier. In addition to Applicant's subsidiary's Supplemental registration for the color COPPER as applied to gloves (which Applicant notes was recently assigned to Xela Corporation and is U.S. Registration No. 4,075,476), the following entities own federal trademark registrations for non-standard colors as applied to gloves:

- Avent, Inc. owns a U.S. Principal Register Registration for The Color Purple as applied to disposable nitrile gloves for general use (U.S. Registration No. 3,099,894);
- Avent, Inc. owns a U.S. Principal Register Registration for the Color Purple as applied to the goods for protective gloves for industrial use, and disposable nitrile gloves for use in laboratories and cleanroom environments (U.S. Registration No. 2,596,539);
- Colur World, LLC owns a U.S. Supplemental Registration for the color pink as applied to gloves for medical and dental use, made of nitrile (U.S. Registration No. 3,172,669);
- Ansell Limited owns a U.S. Supplemental Registration for the colors black and burgundy applied to the entire surface of protective gloves wherein the color black appears on the finger and hand portion of the gloves and the burgundy appears on the cuffs for gloves for protection against accidents; Protective gloves for industrial use; protective work glove (U.S. Registration No. 4,156,027); and
- Michael Ezekiel owns a U.S. Supplemental Registration for the color gold as applied to gloves for medical and dental use (U.S. Registration No. 4,654,439).

Decl. Anil Segat ¶ 13; Declaration Exhibit A.

Moreover, some of Applicant's competitors claim common law trademark rights in non-standard colors as applied to gloves. For example, Halyard Health, Inc. claims common law trademark rights in the color grey as applied to medical gloves and to the color lavender as applied to medical gloves. Decl. Anil Segat ¶ 14; Declaration Exhibit B.

The fact that Applicant's competitors use different colors as a source-identifier for their gloves makes it more likely that the relevant purchasers will perceive Applicant's Mark as a trademark, rather than decorative or ornamental matter. *See also In re The Black & Decker Corp.*, 81 USPQ2d 1841 (TTAB 2006) (finding that identifiable key head had acquired distinctiveness and stating "In other words, the evidence in this case shows that it is common for manufacturers of door hardware to use key head designs as source indicators. This makes it all the more likely that consumers would perceive applicant's applied-for mark as a trademark." (emphasis added)).

In industry situations similar to the instant case, the TTAB considered industry practices and acknowledged that colors operate as source identifiers for wire rope. In *Amsted Industries, Inc. v. West Coast Rope & Rigging Inc.*, the TTAB stated:

A rather unusual aspect of how color is generally applied to one or more strands of wire rope as an industry practice was the subject of considerable testimony and evidence. Even though the third-party registrations attached to applicant's brief are not in evidence, *supra*, note 4, there is no doubt, on opposer's record, that a number of suppliers of wire rope utilize one or more distinctively colored wire rope strands to serve as indicators of origin and have registered these indicia as trademarks.

*Amsted Industries Inc. v. West Coast Rope & Rigging Inc.*, 2 USPQ2d 1755, 1757 (TTAB 1987); *see also Wire Rope Corporation of America, Inc. v. Secalt S.A.*, 196 USPQ 312, 315 (TTAB 1977):

Insofar as the nature of the use of colored strands in the wire products field is concerned, it is not disputed that it is the ***custom, as previously indicated, for manufacturers to use different colors for application to their wire rope or cable for identification purposes and that purchasers do recognize the individual colors as source indicia***".

(emphasis added).

Similar to the wire rope industry, it is custom in the protective glove industry to acknowledge that colors operate as source identifiers for protective gloves. Decl. Anil Segat ¶ 13.

Applicant selected and adopted Applicant's Mark to function as a source-identifier. If a trademark "is adopted and used primarily for the purpose of identifying and distinguishing a product, and it is capable of doing so, the mere fact that it renders [the product] more ornamental than it would otherwise be ... does not per se dictate a conclusion that it has no trade-mark function." *In re Swift & Co.*, 223 F.2d 950, 954, 42 C.C.P.A. 1048, 1052 (CCPA 1955) (holding that a polka dot design functioned as a trademark and was not merely ornamental as applied to a cleansing product). When Applicant selected Applicant's Mark, it was aware that none of its competitors or glove manufacturers were using the color Magenta for gloves in the industry. Decl. Anil Segat ¶ 7. Furthermore, other than Applicant's licensees, Applicant is not aware of any other glove manufacturer that uses the Color Magenta on gloves. Decl. Anil Segat ¶ 5. Moreover, as evidence of Applicant's intent from the very beginning to claim the color Magenta as applied to gloves as a trademark, Applicant's packaging for its protective gloves bearing Applicant's Mark has contained a trademark notice claiming trademark rights in the color Magenta since 2004. Decl. Anil Segat ¶ 9. Furthermore, Applicant filed its first trademark application for its color Magenta mark shortly after it first began claiming the color Magenta as a mark. Decl. Anil Segat ¶¶ 10-11. In addition, Applicant's choice of a color that is unique and distinctive – yet significantly more expensive to manufacture than standard colors, particularly in a high volume product– further proves that Applicant's Mark was chosen as – and functions as – an indicator of origin and not as a merely decorative feature of the goods. *See* Decl. Anil Segat ¶¶ 15-18.

None of the evidence submitted by the Examining Attorney shows third party use of Magenta for protective gloves in the United States. The evidence attached to the Office Action only shows third party use of blue, green, red, yellow, pink and purple gloves. Furthermore, with

respect to the pink gloves cited by the Examining Attorney in the February 4, 2013 Office Action, Applicant notes that these gloves are manufactured by Microflex, which claims the color Pink as applied to the gloves as a trademark and filed an application for that color after Applicant (and therefore Microflex's application is currently refused based on the present application). Furthermore, the article cited by the Examining Attorney regarding color coding in hospitals specifically references the practice of "color branding exam gloves" and refers to the Purple Nitrile glove (which is owned by Avent). This article acknowledges that the color of a protective glove can be a brand. Furthermore, the mere fact that color-coding occurs in hospitals does not mean that magenta is part of those color-coding systems and the Examiner has not provided any evidence that says it is, or that the mere practice of color-coding in hospitals can preclude Applicant's Mark – which is not in use by any other manufacturers in the protective glove industry from functioning as a trademark.

Accordingly, Applicant respectfully submits that the custom practice in the industry for manufacturers to use different colors for gloves as source identifiers, supporting the conclusion that relevant purchasers view Applicant's Mark as indicating the source of Applicant's goods.

Lastly, Applicant respectfully submits that it is inconsistent for the Examining Attorney to have refused Applicant's Mark on the one hand on the basis that the "use of colors on various medical gloves is merely an ornamental or decorative feature," while, on the other hand, at the same time refusing Applicant's Mark on the grounds of §2(d) based on U.S. Supplemental Register registration for the color pink on gloves, *which was deemed by the PTO to have been non-ornamental or decorative* and registered on the Supplemental Register. Significantly, the fact that at least five other entities in the protective glove industry own U.S. registrations for colors for similar products provides compelling evidence that Applicant's Mark is not

ornamental but rather a source identifier. Moreover, the fact that the owner of the cited §2(d) registration has executed a consent to registration of Applicant's Mark not only establishes that the competitor does not believe that there is a likelihood of confusion, but represents an acknowledgement by a competitor that Applicant's Mark is a distinctive source identifier. Colur World, LLC has acknowledged that the marks are different as evidenced by its consent to registration of Applicant's Mark.

**3. Evidence of Distinctiveness.**

As discussed in detail below and is shown by the evidence submitted herein, Applicant's Mark has acquired distinctiveness. Accordingly, Applicant respectfully submits that Applicant's Mark is not ornamental or decorative, but rather, it is a distinctive source identifier.

**II. Applicant's Mark has Acquired Distinctiveness**

The Examining Attorney also refuses registration asserting that the previously submitted 2(f) evidence is insufficient to prove that Applicant's Mark has acquired distinctiveness. While the Applicant respectfully disagrees with the Examining Attorney's position, Applicant, in the interest of advancing prosecution and responding to the Examining Attorney's concerns submits the following additional evidence and arguments (which are of the type the USPTO relies on in determining whether a mark has acquired distinctiveness). *See* TMEP §§ 1212.06 and 1212.02(c).

"[A] mark has acquired distinctiveness, even if not inherently distinctive, if it has developed secondary meaning, which occurs when 'in the minds of the public, the primary significance of a [mark] is to identify the source of the product rather than the product itself.'" *Wal-mart*, 529 U.S. at 209 quoting *Inwood Laboratories, Inc. v. Ives Laboratories, Inc.*, 456

U.S. 844, 851, n.11, 102 S.Ct. 2182. It is well settled that even borderline cases should be resolved in favor of the Applicant “on the theory that any person who believes he would be damaged by the registration will have the opportunity under Section 13 to oppose the registration of the mark to present evidence, usually not present in the ex parte application, to that effect.” *In re Gourmet Bakers, Inc.*, 173 U.S.P.Q. 565 (T.T.A.B. 1972).

Registrations of a trademark that consists of a single color are registrable with a showing of acquired distinctiveness. *See Qualitex Co. v. Jacobson Products Co., Inc.*, 514 U.S. 159, 34 USPQ2d 1161 (1995) (green-gold used on dry cleaning press pads held to be a protectible trademark, where the color had acquired secondary meaning); *In re Owens-Corning Fiberglas Corp.*, 774 F.2d 1116, 227 USPQ 417 (Fed. Cir. 1985) (the color pink as applied to fibrous glass residential insulation registrable where the evidence showed the color had acquired secondary meaning).

Evidence of a mark’s acquired distinctiveness may include, among others: (1) substantially exclusive and continuous use of a mark in commerce for five years; (2) examples of advertising and promotional materials specifically promoting the identified color as a mark; (3) dollar figures for advertising devoted to promotion of the specified color as a mark; (4) dealer and consumer statements of recognition of the specified color as a mark; and (5) any other evidence that might establish recognition of the identified color as a mark for the goods. *See* TMEP §§1212.

The evidence submitted herewith and discussed below demonstrates that Applicant has more than met its burden to prove that Applicant’s Mark has acquired distinctiveness.

**a. Applicant has made substantially exclusive and continuous use of Applicant’s Mark for 11 years**

Proof of substantially exclusive and continuous use of a designation by the Applicant in commerce for the five years before the date on which the claim of distinctiveness is made may be accepted as *prima facie* evidence that the mark has acquired distinctiveness as used with the Applicant's goods in commerce. 15 U.S.C. § 1052(f). Applicant has made substantially exclusive and continuous use of Applicant's Mark in commerce for more than **11 years**. Applicant's claim of use is supported by the declaration submitted with the application to register Applicant's Mark in accordance with 37 C.F.R. §2.20; Decl. Anil Segat ¶ 9.

**b. Applicant extensive sales efforts and extensive sales over 11 years show secondary meaning**

The significance of Applicant's sales efforts, primarily in a smaller market, that involve face-to-face sales meetings and sales calls cannot be overlooked. Over the past 11 years, Applicant has engaged in more than 400 face-to-face sales meetings and more than 206,000 sales calls in which it offered and promoted its protective gloves bearing the Applicant's Mark. Decl. Anil Segat ¶¶ 31-33. Importantly, during these face to face sales meetings and the hundreds of thousands of sales calls, Applicant specifically promoted Applicant's Mark as a source identifier. Decl. Anil Segat ¶ 34. As noted in the declaration of Applicant's President, in a typical meeting or sales call, Applicant would inform the customer/potential customer that the Magenta gloves have been developed and designed by Preventive Care, that these gloves differentiate themselves from other generic colored gloves (Blue, White, Green, etc.) because the unique color identifies that the gloves come from Preventive Care, and that Magenta colored gloves are only available from Preventive Care in the United States because we use an unique formulation to arrive at the specific color, that is proprietary to Preventive Care. *Id.* Furthermore, at the face to face meetings, Applicant provided customers or prospective customers with sales sheets and packages

of Applicant's gloves bearing Applicant's Mark and pointed the customers to Applicant's website. Decl. Anil Segat ¶¶ 35. The sales sheets, packaging, and Applicant's website all promote Applicant's Mark as a trademark and contain the above mentioned "look for" advertising. Decl. Anil Segat ¶¶ 25, 35, 39-40; Declaration Exhibits C, F, and G.

Furthermore, in order to generate interest in its product, since 2004, Applicant has provided approximately 500,000 samples of its protective gloves bearing Applicant's Mark to customers or prospective customers. Decl. Anil Segat ¶ 30.

Applicant's sales efforts have been successful. As a result of these extensive sales efforts on the part of Applicant, Applicant has enjoyed extensive and widespread sales of its gloves featuring Applicant's Mark since 2004.<sup>3</sup> Since its first use of Applicant's Mark, Applicant has sold and manufactured more than 87 million protective gloves bearing Applicant's Mark in the United States. Decl. Anil Segat ¶ 19. Furthermore, over the past eleven years, Applicant's sales revenue for its gloves bearing Applicant's Mark in the United States has exceeded 10.2 million dollars. Decl. Anil Segat ¶ 20. *See In re Motorola Inc.*, 3 U.S.P.Q.2d 1142, 1143 (T.T.A.B. 1986) (finding that evidence of large sales numbers demonstrate that mark had become distinctive of applicant's mark).

**c. Applicant's extensive investment in and representative advertising, marketing and promotional materials show secondary meaning**

Evidence of advertising is probative of secondary meaning. 37 C.F.R. § 2.41; J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* §§ 15.50-52 (4<sup>th</sup> ed. 2010).

**1. The Color Magenta Mark has been featured in advertising for 11 years.**

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<sup>3</sup> In addition to Applicant's widespread sales of its gloves bearing Applicant's Mark in the United States, Applicant has sold its gloves bearing Applicant's Mark in numerous other countries including Iceland, United Kingdom, Norway, Sweden, Denmark, Lithuania, Holland, France, Germany, Switzerland, Poland, Austria, Czech Republic, Russia, and also in Canada.

Applicant's advertising, marketing and promotional activities relating to Applicant's Mark have been conducted for over 11 years and have always included prominent pictures of its protective glove featuring Applicant's Mark on its website, product brochures, advertisements and other marketing and promotional materials. Decl. Anil Segat ¶ 27; Declaration Exhibit E.

## **2. "Look for" Advertising**

Sample advertisements showing "look-for" types of promotional efforts from an applicant may be particularly probative on the issue of whether a mark functions as a source identifier.<sup>4</sup> For example, In *In re Simmons Co.*, The Court of Customs and Patent Appeals found that the Applicant had attempted to cause the public to associate the stitches with its product because, among other evidence, Applicant's typical advertisements contained the statement "Look for the border with the vertical double stitch lines – it identifies the Beautyrest mattress." 47 C.C.P.A. 963 (C.C.P.A. 1960); *see also In re Jockey Int'l, Inc.*, 192 USPQ 579 (TTAB 1976) (inverted Y design used on underwear found to have acquired distinctiveness, where evidence showed extensive use on packaging and in advertising in a manner calculated to draw the attention of prospective purchasers to the design and for them to look at the design as a badge of origin).

Similar to the Applicant in *Simmons*, Applicant has educated and directed relevant purchasers to "look for" its distinctive color MAGENTA gloves, so they know that those gloves come from Applicant. *See also Thomas & Betts Corp. v. Panduit Corp.*, 65 F.3d 654, 662, 36 USPQ2d 1065, 1071-72 (7th Cir. 1995) (advertising "look for the oval head" for cable ties encourages consumers to identify the claimed trade dress with the particular producer).

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<sup>4</sup> Applicant notes that the Examining Attorney acknowledged the importance of these types of advertising materials in the April 11, 2008 Office Action by stating that "None of the [submitted] materials contain the so-called "go to" or "look for" evidence required to show that a color has acquired distinctiveness as a source indicator for the goods. There is nothing that tells consumer to look for the pink gloves – i.e., that specifically refers to the color as source indicator."

Specifically, the packaging for Applicant's goods, Applicant's website, and Applicant's promotional materials has for many years prominently emphasized Applicant's Mark by stating "always look for . . . distinctive COPPER and MAGENTA color gloves from Preventive Care, Inc." Decl. of Anil Segat ¶¶ 25, 34, 39-40; Declaration Exhibits C, F, and G. This statement clearly promotes Applicant's Mark as identifying that Applicant's goods came from Applicant and directs relevant purchasers to purchase protective gloves bearing Applicant's Mark if they want to purchase protective gloves from the Applicant.

Moreover, gloves bearing Applicant's Mark are also prominently featured on the packaging for Applicant's Goods as well as language that directs consumers to look for Applicant's Mark in a manner that directs consumers to look for Applicant's Mark as a designation of source. Decl. Anil Segat ¶¶ 25-26; Declaration Exhibits C and D. This consistent and prominent depiction of Applicant's Mark in the advertising and display of Applicant's goods, show that Applicant uses – and consumers would identify -- Applicant's Mark as a source identifier for its gloves.

### **3. Applicant's Advertising Expenditures**

Advertising expenditures are also probative of secondary meaning. 37 C.F.R. § 2.41; *In re Raytheon Co.*, 202 U.S.P.Q. 317, 319 (T.T.A.B. 1979) (finding applicant's advertising expenditures probative of secondary meaning); *In re Ovation Instruments*, 201 U.S.P.Q. 116, 118 (T.T.A.B. 1978) (finding the same). Applicant has expended substantial amounts promoting and advertising gloves depicting Applicant's Mark, has claimed that Applicant's Mark was a mark since 2004, and Applicant has employed "look for" advertising for many years. Decl. Anil Segat ¶¶ 9, 25, 28; Declaration Exhibit C. In particular, since 2008, Applicant has spent over **\$1.36 million** in advertising and promoting gloves featuring Applicant's Mark. Decl. Anil Segat ¶ 28.

The glove market differs from the consumer market in that there are a finite number of relevant purchasers of protective gloves, including healthcare buyers, dentists offices, and related entities. 80% of Preventive Care's customers are resellers that sell its gloves bearing the Applicant's Mark to end users and health care workers nationwide (Preventive Care sells 20% of its protective gloves bearing Applicant's Mark directly). Decl. Anil Segat ¶ 49. There are approximately 1,500 resellers nationwide. Decl. Anil Segat ¶ 23. Importantly, Preventive Care has spent the majority of its \$1.36 million in advertising and promoting gloves featuring Applicant's Mark to these 1,500 resellers.

#### **4. Applicant's Numerous Advertising and Promotional Activities**

Applicant has advertised gloves depicting Applicant's Mark in numerous mediums including: distribution of printed advertisements and brochures, direct mail advertising, trade show attendances, distribution of hundreds of thousands of sample packs of the gloves bearing the distinctive Magenta color for the purpose of promoting them with existing and prospective customers, and other printed advertising and promotional materials and various types of online advertising and promotion. Decl. Anil Segat ¶ 27, 30, 46, 47.; Declaration Exhibits E, J.

In addition, Applicant has consistently reinforced the color Magenta as a source identifier for Applicant. Applicant has prominently depicted its gloves bearing Applicant's Mark on its packaging since 2006. Decl. Anil Segat ¶ 26; Declaration Exhibit D. To reinforce the Color Magenta Mark as a source identifier, Applicant prominently uses the color Magenta on its packaging, on its corporate letterhead (which contains an image of a glove bearing the Applicant's Mark), and in the signature line of its outgoing emails. Decl. Anil Segat ¶ 43, 45; Declaration Exhibit I.

Furthermore, Applicant's website, [www.allogel.us](http://www.allogel.us), is a key marketing tool for Applicant, as the website provides the platform for customers and prospective customers to view Applicant's products, view product specifications and obtain information about Applicant and its good and services. Decl. Anil Segat ¶ 38. Applicant's website has been continuously updated and revised over the past 8-10 years, however, Applicant's Mark has always been prominently featured.

**5. Applicant has claimed Applicant's Mark as a trademark since 2004**

Since 2004, Applicant has claimed Applicant's Mark as a trademark on its packaging for the protective gloves. Decl. Anil Segat ¶ 9. Applicant's promotional materials and website also contain trademark notices clearly indicating that the Color Magenta is a trademark of its respective owner. Decl. Anil Segat ¶ 25; Declaration Exhibit C. Additionally, for many years,. Applicant's website has contained a prominent link on its homepage to Applicant's "Patents & Trademarks" page where it states the color MAGENTA is a trademark of its respective owner. Decl. Anil Segat ¶ 41; Declaration Exhibit H.

The majority of Applicant's Goods are sold through resellers, who sell the goods to end users. Decl. Anil Segat ¶¶ 49-51. Applicant's advertising materials on such third party websites also promote Applicant's Mark as a trademark. *Id.* See also Declaration Exhibit K.

**D. Consumers Recognize Applicant's Mark as A Source Identifier**

The distinctiveness of Applicant's Mark is further evidenced by third-party customer statements contained in declarations, submitted and attached to the declaration of Applicant's President, which demonstrate that customers and end users have come to recognize and associate Applicant's Mark with Applicant. Affidavits or declarations that assert recognition of the mark as a source indicator are relevant in establishing acquired distinctiveness. See TMEP § 1212.06(c); See also *In re The Black & Decker Corp.*, 81 USPQ2d 1841 (TTAB 2006) (finding

that retailer and consumer declarations consisted of competent evidence of consumer recognition of the octagonal key head design as a trademark). Applicant resubmits as Declaration Exhibit L, sworn consumer declarations concerning the Applicant's Mark. Declaration of Anil Segat ¶ 53. In the first of these declarations, Art Stengel, the owner and CEO of Dart Dental Supply, stated that:

"Magenta gloves" have come to mean, in the office, and among some of our customers, the gloves from PCI. When they ask for the 'Magenta gloves,' they mean the distinctive-looking gloves from PCI. Color is not functional in examination gloves, so it is a way of distinguishing PCI's gloves from its competitors."

Decl. Exh. L. In the second declaration, Sharyl Peggs, a purchasing manager for one of Applicant's customers stated:

In 2004, my company started purchasing gloves from PCI for resale that were colored the same "Magenta" color as an additional method to distinguish PCI's gloves from those of competitors. These "Magenta" gloves became and are popular, especially among the customers in one of our principal markets: dental offices. Customers will often ask for the "Magenta gloves" in placing an order, meaning the magenta-colored gloves by PCI. They are a distinctive product in the mind of many of our customers... Magenta gloves is also a short hand in our office for these gloves sold by Preventive Care, Inc.

Decl. Exhibit L.

Applicant respectfully submits that the attached declarations are strong evidence that consumers recognize Applicant's Mark as an indication of the source of Applicant's gloves.

Applicant has met its evidentiary burden to show acquired distinctiveness by providing evidence of Applicant's "look for" advertising, Applicant's long-time use of Applicant's Mark and extensive promotional activities and expenditures featuring Applicant's Mark, and customer declarations indicating consumer recognition of Applicant's Mark.

### **Conclusion**

In light of the totality of the circumstantial and direct evidence presented and discussed above, and considering that any doubt should be resolved in favor of the Applicant, Applicant

submits that Applicant's mark functions as a trademark, is not merely ornamental or decorative, and has acquired distinctiveness.

Accordingly, Applicant submits that Applicant's Mark is entitled to registration on the Principal Register and respectfully requests that the Examining Attorney withdraw the refusal and permit Applicant's Mark to be published.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of:  
PREVENTIVE CARE, INC.

Mark: Color Magenta as Applied to the Entire  
Surface of Gloves

Filing Date: August 17, 2005

Serial Number: 78/694,721

International Classes: 9, 10, and 21

Trademark Law Office: 116

Atty.Dkt. No.: PREV.T0015US.AP1

Examining Attorney: Nora Buchanan Will

**DECLARATION OF ANIL SEGAT**

I, Anil Segat, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declare and state the following:

- (1) I am currently the President of Applicant, Preventive Care, Inc. (hereinafter "Preventive Care" or "Applicant"), and am authorized to make this Declaration on its behalf.
- (2) As President of Preventive Care, Inc., I also have personal knowledge of the facts stated herein and each such fact is true and correct.
- (3) Preventive Care is a Minnesota company that is in the business of designing, manufacturing, and distributing medical and safety gloves to customers in North America, Europe, and Asia.
- (4) Preventive Care services customers globally, with primary markets being the United States and the European Union. Preventive Care has a subsidiary sales/distribution office in Denmark (EuroDispo A/S) & a subsidiary supply chain/logistics & sales office in Malaysia (eXAsia sdn. Bhd.).
- (5) To my knowledge, Preventive Care is the only glove manufacturer that makes and sells the distinctive color Magenta in connection with protective gloves in the United States.

Preventive Care sells gloves bearing Applicant's Mark directly to customers and through Preventive Care's licensee-resellers.

(6) Preventive Care did not choose the color Magenta to make its gloves aesthetically pleasing or as a decorative feature.

(7) Preventive Care specifically chose the color Magenta for its protective gloves because the color is unique and distinctive in Preventive Care's industry and would indicate to consumers that the protective gloves originated from Preventive Care.

(8) Preventive Care intended to claim the Color Magenta as applied to its protective gloves as a trademark since its selection and has continuously done so since January 14, 2004. Preventive Care has made substantially exclusive and continuous use of the color Magenta as a trademark in commerce for more than 11 years.

(9) Since 2004, Preventive Care has included a trademark notice on its packaging for its protective gloves noting that the color Magenta is a trademark.

(10) Because Preventive Care intended to claim the Color Magenta as applied to its protective glove as a trademark since 2004, it filed its first trademark application for the color Magenta as applied to its protective gloves shortly thereafter on February 6, 2005.

(11) Due to an error by Preventive Care's previous counsel, Preventive Care was required to re-file the present trademark application for its Color Magenta trademark as applied to its protective gloves on August 17, 2005.

(12) The colors green, blue, white, and nude for gloves are common in the glove industry. These colors are considered standard colors in Applicant's industry and are not used as source identifiers.

(13) It is industry practice for manufacturers of protective gloves to use different and

identifiable colors as a source identifier for their gloves and the U.S. Patent and Trademark

Office has issued several registrations for these non-standard colors. For example:

- Xela Corporation owns U.S. Registration No. 4,075,476 for the color Copper as applied to distinctive gloves (Xela Corporation is a subsidiary of Preventive Care) and the following entities own federal trademark registrations for non-standard colors as applied to gloves;
- Avent, Inc. owns a U.S. Principal Register Registration for The Color Purple as applied to disposable nitrile gloves for general use (U.S. Registration No. 3,099,894);
- Avent, Inc. owns a U.S. Principal Register Registration for the Color Purple as applied to the goods for protective gloves for industrial use, and disposable nitrile gloves for use in laboratories and cleanroom environments (U.S. Registration No. 2,596,539);
- Color World, LLC owns a U.S. Supplemental Registration for the color pink as applied to gloves for medical and dental use, made of nitrile (U.S. Registration No. 3,172,669);
- Ansell Limited owns a U.S. Supplemental Registration for the colors black and burgundy applied to the entire surface of protective gloves wherein the color black appears on the finger and hand portion of the gloves and the burgundy appears on the cuffs for gloves for protection against accidents; Protective gloves for industrial use; protective work glove (U.S. Registration No. 4,156,027); and

- Michael Ezekiel owns a U.S. Supplemental Registration for the color gold as applied to gloves for medical and dental use (U.S. Registration No. 4,654,439).

Copies of registration certificates for these registrations are attached hereto as **Declaration**

#### **Exhibit A.**

(14) Preventive Care's competitors also claim common law trademark rights in non-standard protective glove colors. Halyard Health, Inc. claims common law trademark rights in the color grey as applied to medical gloves and to the color lavender as applied to medical gloves. A copy of Halyard Health's website where it claims trademark rights in these colors as applied to gloves is attached as **Declaration Exhibit B.**

(15) The color Magenta is not a natural by-product of the manufacturing process for the gloves.

(16) Preventive Care's gloves feature the color Magenta mark because of a magenta pigment added during the manufacturing process.

(17) Preventive Care pays \$27.00 per 1,000 protective gloves bearing the distinct Magenta color. In contrast, standard blue color protective gloves cost on average \$24.50 per 1,000 gloves.

(18) The Magenta color is added to Applicant's protective glove costs 10% more than a standard blue glove and, as such, is significantly more expensive to manufacture than a standard colored glove, particularly in a volume-based product such as protective gloves.

(19) Since 2004, Preventive Care has sold over 87 million gloves bearing our distinctive color Magenta trademark in the United States.

(20) Preventive Care's total sales revenue for gloves sold in its distinctive Magenta color is estimated to have exceeded over \$10.2 million dollars in the United States.

(21) In addition to its sales in the United States, Preventive Care receives orders from people all over the world for our protective gloves bearing our distinctive Magenta color mark.

(22) Preventive Care had licensed its color Magenta mark to Shanghai Baisheng Medical Products for manufacturing and sales to resellers, Value Max for sales to end users, Comfort Rubber Gloves, Malaysia, for manufacturing and sales to resellers, S2S Global for sales to end users, and Homobonus for sales to resellers and end users.

(23) Preventive Care's customers are resellers that sell its gloves bearing the Applicant's Mark to health care workers nationwide. There are approximately 1,500 resellers nationwide.

(24) Since 2004, Preventive Care has prominently and continuously used its distinctive Magenta color as part of its efforts to advertise, market, and promote Preventive Care's gloves.

(25) Preventive Care's packaging, advertisements, and websites for its gloves bearing its distinctive Magenta color mark often direct consumers to "always look for . . . distinctive COPPER and MAGENTA color gloves from Preventive Care, Inc." These materials also contain a trademark notice indicating that the Color Magenta is a trademark of its respective owner. Representative examples of packaging and advertisements are attached hereto as

**Declaration Exhibit C.**

(26) Since 2006, Preventive Care's packaging for its protective gloves bearing its color Magenta mark has contained a prominent image of the protective glove bearing its color Magenta mark. An example of packaging is attached hereto as **Declaration Exhibit D.**

(27) Since 2004, Preventive Care has advertised its distinctive Magenta Color mark through various outlets including: face to face sales meetings, sales calls, distribution of printed advertisements, direct mail advertising, trade show attendances, distribution of sample packs of the gloves bearing the distinctive Magenta color for the purpose of promoting them with existing and prospective customers, and other printed advertising and promotional materials and various types of online advertising and promotion. These advertising materials have always included prominent pictures of its protective glove bearing the color Magenta Mark. Representative samples of advertising is attached hereto as **Declaration Exhibit E.**

(28) In the last 8 years, Preventive Care has spent approximately \$1.36 million on advertisements and promotions for its distinctive Magenta color on gloves.

(29) In addition to print advertising, Preventive Care has also promoted its gloves bearing the color Magenta trademark through direct mail advertisements to existing and prospective customers of our distinctive Magenta glove products over the years.

(30) Since 2004, Preventive Care has distributed approximately 500,000 samples of its protective gloves bearing its color Magenta trademark.

(31) Since 2004, Andreas Brown (who is the Vice President and Chief Operating Officer of Preventive Care) and I, have participated in approximately 400 face-to-face sales meetings with customers and potential customers of Preventive Care's protective gloves bearing the Color Magenta mark.

(32) Since 2004, Andreas Brown and I, have participated in approximately 5,000 sales calls with customers and potential customers of Preventive Care's protective gloves bearing the Color Magenta mark.

(33) Since 2004, Preventive Care's sales staff has made over 206,000 sales calls with customers and potential customers of Preventive Care's protective gloves bearing the Color Magenta mark.

(34) In a typical sales meeting or sales call, I (or a representative of Preventive Care) would tell the customer that the Magenta gloves have been developed and designed by Preventive Care, that these gloves differentiate themselves from other generic colored gloves (Blue, White, Green, etc.) because the unique color identifies that the gloves come from Preventive Care, and that Magenta colored gloves are only available from Preventive Care in the United States because we use a unique formulation to arrive at the specific color, that is proprietary to Preventive Care.

(35) After a typical sales meeting or sales call, sales sheets and a few boxes of the protective gloves bearing the Magenta mark would either be left with the customers or would have been sent in advance by courier. In addition, Preventive Care would draw the customer's attention to its website (allogel.us). The sale sheets, the packaging, and the website all specifically promote the Magenta Color as a source identifier and contain the statement "'always look for . . . distinctive COPPER and MAGENTA color gloves from Preventive Care, Inc.'"

(36) Preventive Care has prominently advertised its distinctive Magenta color for its gloves on its website for over 8 years.

(37) Preventive Care's website features an image of the box packaging featuring its gloves bearing the Magenta mark on the website.

(38) Preventive Care's website is a key marketing tool for our business, as our website provides a platform for our current and prospective customers to view our latest products, browse product specifications, and obtain other information about our company and its history.

(39) Preventive Care's website has prominently promoted Preventive Care's distinct Magenta color as a source identifier for our protective gloves and stated "Always look for ...VisibleWave™ distinctive COPPER or MAGENTA color gloves from Preventive Care, Inc."

A copy of Preventive Care's website, allogel.us from 2011 from the WayBack Machine is attached hereto as **Declaration Exhibit F**.

(40) Preventive Care's website, allogel.us, continues to promote Preventive Care's distinct Magenta color on gloves and states "Always look for ...VisibleWave™ distinctive COPPER or MAGENTA color gloves from Preventive Care, Inc.". A copy of Preventive Care's website, allogel.us, from August 3, 2015 is attached hereto as **Declaration Exhibit G**.

(41) Preventive Care's website's homepage contains – and has contained for many years -- a prominent link to its "Patents & Trademarks" page which states that the color MAGENTA is a trademark of its respective owner and the Patents & Trademarks page is still visible on Preventive Care's website. A copy of Preventive Care's Patents & Trademark page on its website is attached hereto as **Declaration Exhibit H**.

(42) Since at least 2004, Preventive Care's packaging for its protective gloves has contained the distinctive color Magenta. See **Declaration Exhibit D**.

(43) To further reinforce the connection between the Color Magenta Mark and Preventive Care, Preventive Care's corporate letterhead also uses its distinct color Magenta mark and contains an image of a glove bearing the distinct Color Magenta mark. A copy of Preventive Care's corporate letterhead is attached hereto as **Declaration Exhibit I**.

(44) In addition to using its distinct color Magenta on its gloves, Preventive Care uses the distinctive Magenta color on its ALLOGEL® logo for its patented glove line. See Declaration Exhibit C.

(45) All e-mail messages that originate from Preventive Care carry the Magenta mark below the signature. In the last 8 years, Preventive Care has sent over 80,000 emails bearing the Magenta mark below the signature.

(46) Preventive Care regularly attends trade shows for those that service the medical and safety glove markets, and other related products. Such events are typically attended by those working in the industry, including customers and prospective customers.

(47) Preventive Care's gloves bearing the distinctive Magenta color are routinely featured at these events and Preventive Care's sales representatives communicate the same messages about the Magenta gloves to attendees as are discussed in paragraph 34 above.

Representative images of Preventive Care's trade show booth are attached hereto as **Declaration**

**Exhibit J.**

(48) Since the launch of our distinctive Magenta color glove products, Preventive Care has spent a considerable sum on advertising and promotional expenses related to trade show attendance. Total expenditures to date specifically related to Preventive Care's trade show attendance have been roughly \$500,000.

(49) 80% of the gloves bearing the distinctive Magenta color mark are sold through resellers, who sell the products to end users. The remaining 20% of Preventive Care's protective gloves bearing the distinctive Magenta color mark are sold directly by Preventive Care.

(50) In addition to Preventive Care's substantial advertising and promotion of its color Magenta mark, resellers also advertise the distinctive color Magenta mark through their own catalogs, websites, sample packs and trade shows.

(51) Similar to Preventive Care's advertising, these reseller advertising materials also prominently feature a statement that reads "Always look for ... VisibleWave™ distinctive COPPER or MAGENTA color gloves from Preventive Care, Inc." and a trademark notice notifying consumers that the color MAGENTA is a trademark of its respective owner. Copies of these advertising materials available on third party websites are attached as **Declaration Exhibit**

**K.**

(52) As a result of our substantial advertising and promotional efforts, our customers recognize the Color Magenta Mark used in connection with protective gloves as identifying Preventive Care and its products.

(53) As seen in **Declaration Exhibit L**, at least as early as 2007, consumers recognize the Magenta color glove as meaning that the glove comes from Preventive Care.

(54) I declare that the facts set forth in this Declaration are true, that all statements made of my own knowledge are true, and that all statements made on information and belief are believed to be true.

Executed on this 3<sup>rd</sup> day of August, 2015.

Signature: 

Printed Name: ANIL SEGAT

Title: Retiree

Date: 8/3/2015

DECLARATION  
EXHIBIT  
A

# United States of America

United States Patent and Trademark Office



Reg. No. 4,075,476  
Registered Dec. 20, 2011

PREVENTIVE CARE, INC. (MINNESOTA CORPORATION)  
15215 BOUTLIER TRAIL  
ROSEMOUNT, MN 55068

Int. Cls.: 9, 10, and 21

TRADEMARK

SUPPLEMENTAL REGISTER

FOR: DISPOSABLE LATEX AND SYNTHETIC PROTECTIVE GLOVES FOR SCIENTIFIC, LABORATORY, INDUSTRIAL, AGRICULTURAL AND LAW ENFORCEMENT USE, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 9-15-2010, IN COMMERCE 9-15-2010.

FOR: DISPOSABLE LATEX AND SYNTHETIC PROTECTIVE GLOVES FOR MEDICAL, DENTAL, AND VETERINARY USE, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 9-15-2010, IN COMMERCE 9-15-2010.

FOR: DISPOSABLE LATEX AND SYNTHETIC PROTECTIVE GLOVES FOR USE IN THE FOOD SERVICE AND CLEANING INDUSTRY AND FOR GENERAL USE, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 9-15-2010, IN COMMERCE 9-15-2010.

THE MARK CONSISTS OF THE COLOR COPPER AS APPLIED TO THE ENTIRE SURFACE OF THE GOODS, NAMELY, PROTECTIVE GLOVES, THE DOTTED OUTLINE OF THE GOODS IS INTENDED TO SHOW THE POSITION OF THE MARK AND IS NOT A PART OF THE MARK.

THE COLOR(S) COPPER IS/ARE CLAIMED AS A FEATURE OF THE MARK.

SER. NO. 85-208,210, FILED PR. 12-30-2010, AM. S.R. 9-28-2011.

ANGELA M. MICHELI, EXAMINING ATTORNEY



David S. K. [Signature]  
Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

*First Filing Deadline:* You must file a Declaration of Use (or Excusable Nominé) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

*Second Filing Deadline:* You must file a Declaration of Use (or Excusable Nominé) and an Application for Renewal between the 9th and 10th years after the registration date. \*  
See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nominé) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date. \*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

**\* ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nominé) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nominé) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141f. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

Int. Cl.: 21

Prior U.S. Cls.: 2, 13, 23, 29, 30, 33, 40 and 50

Reg. No. 3,099,894

**United States Patent and Trademark Office** Registered June 6, 2006

**TRADEMARK**  
**PRINCIPAL REGISTER**



KIMBERLY-CLARK WORLDWIDE, INC. (DELA-  
WARE CORPORATION)  
401 NORTH LAKE STREET  
NEENAH, WI 54956

FOR: DISPOSABLE NITRILE GLOVES FOR GEN-  
ERAL USE, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33,  
40 AND 50).

FIRST USE 9-26-2002; IN COMMERCE 9-26-2002.

OWNER OF U.S. REG. NO. 2,396,539.

THE DRAWING IS LINED FOR THE COLOR(S)  
PURPLE.

THE MARK CONSISTS OF THE COLOR PURPLE  
AS APPLIED TO THE GOODS. THE DOTTED OUT-  
LINE OF THE GOODS IS INTENDED TO SHOW THE  
POSITION OF THE MARK AND IS NOT A PART OF  
THE MARK.

SEC. 2(F).

SER. NO. 78-241,456, FILED 4-24-2003.

ANDREW LAWRENCE, EXAMINING ATTORNEY

Int. Cls: 9 and 10

Prior U.S. Cls: 21, 23, 26, 36, 38, 39 and 44

Reg. No. 2,596,539  
Registered July 23, 2002

TRADEMARK  
PRINCIPAL REGISTER



SAFESKIN CORPORATION (FLORIDA COR-  
PORATION)  
12671 HIGH BLUFF DRIVE  
SAN DIEGO, CA 92130

FIRST USE 10-29-1998; IN COMMERCE 10-29-1998.

FOR: PROTECTIVE GLOVES FOR INDUSTRIAL  
USE, AND DISPOSABLE NITRILE GLOVES FOR  
USE IN LABORATORIES AND CLEANROOM EN-  
VIRONMENTS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36  
AND 38).

FIRST USE 12-18-1996; IN COMMERCE 12-18-1996.

FOR: GLOVES FOR MEDICAL AND SURGICAL  
USES, IN CLASS 10 (U.S. CLS. 26, 39 AND 40).

THE MARK CONSISTS OF THE COLOR PURPLE  
AS APPLIED TO THE GOODS. THE DOTTED OUT-  
LINE OF THE GOODS IS INTENDED TO SHOW THE  
DISTINCTIVE OF THE MARK AND IS NOT A PART OF  
THE MARK. THE DRAWING IS LINE FOR THE  
COLOR PURPLE.

SER. NO. 75-640,743, FILED S.R. 2-12-1999 AM, P.R.  
7-25-2000.

JENNIFER CHOCOSKI, EXAMINING ATTORNEY

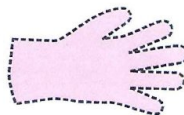
Int. Cl.: 10

Prior U.S. Cls: 26, 39, and 44

**United States Patent and Trademark Office**

Reg. No. 3,172,669  
Registered Nov. 14, 2006

**TRADEMARK  
SUPPLEMENTAL REGISTER**



TOP QUALITY MANUFACTURING, INC. (PENNSYLVANIA CORPORATION)  
6800 LINDBERGH BLVD.  
PHILADELPHIA, PA 19142

FOR: GLOVES FOR MEDICAL AND DENTAL USE, MADE OF NITRILE, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 4-26-2005; IN COMMERCE 4-26-2005.

THE STIPPLING IS FOR SHADING PURPOSES ONLY.

THE MARK CONSISTS OF THE COLOR PINK AS APPLIED TO THE ENTIRE SURFACE OF THE GOODS, NAMELY, GLOVES FOR MEDICAL AND DENTAL USE, MADE OF NITRILE. THE DOTTED OUTLINE OF THE GOODS IS INTENDED TO SHOW THE POSITION OF THE MARK AND IS NOT A PART OF THE MARK.

SER. NO. 78-623,143, FILED P.R. 5-4-2005; A.M. S.R. 9-11-2006.

MATTHEW MCDOWELL, EXAMINING ATTORNEY

# United States of America

United States Patent and Trademark Office



Reg. No. 4,156,027

ANSELL LIMITED (AUSTRALIA CORPORATION)  
VICTORIA GARDENS, LEVEL 3  
678 VICTORIA STREET  
RICHMOND, AUSTRALIA 3121

Registered June 5, 2012

Int. Cl.: 9

TRADEMARK

FOR: GLOVES FOR PROTECTION AGAINST ACCIDENTS; PROTECTIVE GLOVES FOR INDUSTRIAL USE; PROTECTIVE WORK GLOVES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

SUPPLEMENTAL REGISTER

FIRST USE: 4-8-2006; IN COMMERCE: 4-8-2006.

OWNER OF U.S. REG. NO. 3,376,673.

THE COLOR(S) BLACK AND BURGUNDY IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE COLOR BLACK AND BURGUNDY APPLIED TO THE ENTIRE SURFACE OF PROTECTIVE GLOVES WHEREIN THE COLOR BLACK APPEARS ON THE FINGER AND HAND PORTION OF THE GLOVES AND THE BURGUNDY APPEARS ON THE CUFFS. THE MATTER SHOWN IN BROKEN LINES ON THE DRAWING SHOWS POSITIONING OF THE MARK ON THE GOODS AND NEITHER OF THE MATTER SHOWN IN BROKEN LINES NOR THE CONFIGURATION OF THE GLOVES IS CLAIMED AS A FEATURE OF THE MARK.

SER. NO. 85-474,049, FILED 11-16-2011.

MYRLAH HABIB, EXAMINING ATTORNEY



David S. K. [Signature]  
Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nominse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nominse) and an Application for Renewal between the 9th and 10th years after the registration date. \* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nominse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nominse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nominse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

# United States of America

United States Patent and Trademark Office



Reg. No. 4,654,439  
Registered Dec. 9, 2014  
Int. Cl.: 10

TRADEMARK  
FIRST USE 2-1-2014; IN COMMERCE 2-1-2014.

**SUPPLEMENTAL REGISTER**  
THE MARK CONSISTS OF THE COLOR GOLD AS APPLIED TO GLOVES FOR MEDICAL AND DENTAL USE. THE DOTTED OUTLINE OF THE GOODS IS INTENDED TO SHOW THE POSITION OF THE MARK ON THE GOODS AND IS NOT PART OF THE MARK.  
THE COLOR(S) GOLD IS/ARE CLAIMED AS A FEATURE OF THE MARK.  
SER. NO. 85-871,805, FILED PR. 3-9-2013; AM. S.R. 10-14-2014.  
VERNA BETH RIRIE, EXAMINING ATTORNEY



*Nichelle K. Lu*  
Deputy Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
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**Requirements in the First Ten Years\***

**What and When to File:**

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***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nominé) and an Application for Renewal between the 9th and 10th years after the registration date. \*  
See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nominé) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

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**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

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**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**DECLARATION  
EXHIBIT  
B**

## Medical Exam Gloves

### The Right Latex-Free Glove for Every Procedure

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Halyard Health Medical Exam Gloves help safeguard healthcare workers from exposure to hazardous pathogens and other infectious materials, whatever the task or procedure. From proprietary nitrile formulations to economical vinyl, there's a Halyard Medical Exam Glove that's right for every clinical task.



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Quality Performance in a Nitrile Glove Claimed for Use with Chemotherapy

The STERLING SG® Sensi-Guard Nitrile Exam Gloves provide excellent fit and feel compared to latex. The new nitrile formulation provides excellent tactile sensitivity, without sacrificing any of the STERLING® Nitrile's barrier properties or durability.

- Non-sterile
- Ambidextrous
- Textured fingertips
- Beveled cuffs
- Higher count, saves space
- Cleared for use in chemotherapy

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- SMARTFULL™ Dispenser Box
- Thinner, lighter and more economical than standard nitrile – the ideal replacement for vinyl exam gloves in a wet, over 65% of healthcare professionals
- Superior tactile sensitivity and comfort



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### STERLING® Nitrile Exam Gloves

- SMARTFULL™ Dispenser Box
- A latex-free exam glove with the protection of nitrile and the sensitivity of latex
- The worry-free choice designed for virtually every use, throughout your facility



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### PURPLE NITRILE® Exam Gloves

- Ideal for moderate to high risk settings
- Provides barrier protection against permeation of 22 hazardous agents
- Halyard Health medium coverage and protection



[Click here to download product information](#)

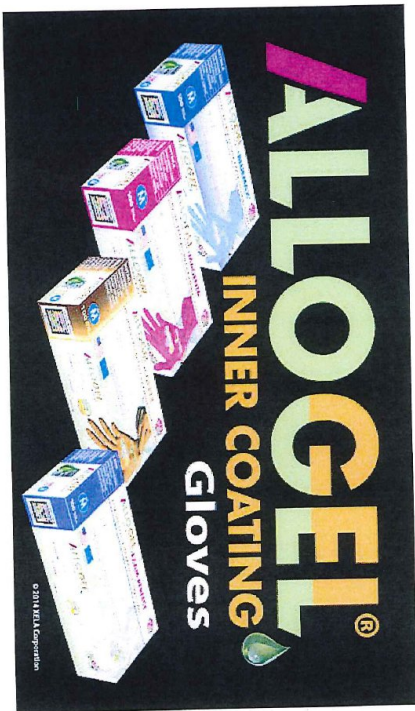


DECLARATION  
EXHIBIT  
C

8/2/2015

ALLOGEL®

ALLOGEL® Gloves — ALLOGEL®



<http://www.allogelusa.com>

8/2/75

ALOEI@ GIVE - ALOEI@

<http://www.aloei.us/give>

**ALLOGEL<sup>®</sup>**  
INNER COATING  
**MAGENTA<sup>™</sup>**  
NITRILE PERFECT<sup>™</sup>



**Nitrile Examination Glove with ALLOGEL® Inner Coating,  
ULTRA SOFT-STRETCH™, Powder Free, Micro-Textured,  
Beaded Cuff, Non-Sterile, MAGENTA™ Color**

**XS**                      **S**                      **M**                      **L**                      **XL**  
**ALLOGENA-XS**    **ALLOGENA-S**    **ALLOGENA-M**    **ALLOGENA-L**    **ALLOGENA-XL**  
 Packaging: XS-L 100 gloves/box; 10 boxes per case. XL 90 gloves/box; 10 boxes per case.

[illegible]

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**VisibleWave.**  
distinctive COPPER or MAGENTA™  
color gloves from PreventiveNet are the

Finally! The Ultimate Nitrite Glove... wrap your hands with **AlloGel**®... your answer to Perfect Hands.

ULTRA-SOFT-STRETCH™ provides excellent comfort and donning, along with superior fit. Unique formulation reduces hand fatigue. Micro-textured finish ensures slip-resistance, wet or dry. Superior tactile sensitivity for medical use such as handling delicate instruments.

COLOR-PERFECT™ **MAGENTA™** ... unique.

**ALLOGET<sup>®</sup>** ... caring for your hands with the following ingredients:

### Allantoin

**Alanton**... is a product found naturally in many plants including wheat germ, and coffee roots. An exceptional healing, moisturizing, soothing and anti-irritating agent, the addition of Alanton to Dermolons results in softer, suppler skin. Alanton is also a valuable cell proliferating and healing agent, which stimulates healthy tissue formation by promoting and accelerating the natural cell regeneration processes of the skin.

- **Collagen**

**Collagen**

... is a high purity marine derived product, naturally produced in the marine environment. It's produced via an enzymatic process creating high compatibility with human skin. Collagen improves the moisture content of skin due to its firm forming and moisture binding properties. It's effective at all pH levels.

● **Silicone**

Silicone Polymer has barrier and unique glove donning properties. A thin layer silicone helps separate the skin from the synthetic material of the glove. It also helps to seal in the moisturizers and known therapeutic properties of Allantoin and Collagen, on to the user's skin.



10

(EPO) EP 2 081 454 B1

Scan with SmartPhone



**9. TRADEMARKS**

[illegible]

**EUROPE**  
**Distributed by:**

**EuroDispo A/S**  
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Denmark  
Tel: +45 7582 0303  
Fax: +45 6980 4399  
[www.eurodispo.eu](http://www.eurodispo.eu)

**AMERICAS  
Distributed**

**Preventive Care, Inc.**  
PO Box 337  
Rosemount, MN 55068, USA  
Tel: +1 877-393-3119  
[www.preventivecareinc.com](http://www.preventivecareinc.com)



# ALLOGEL®

## INNER COATING MAGENTA™

NITRILE-PERFECT®



**Technical Specification:**  
Allogel®-150602  
distinctive COPPER® or MAGENTA™  
color gloves from Preventive Care, Inc.

### Technical Specifications

**Storage:** Avoid direct sunlight. Store in a cool and dry place. EN-455

**Tensile Strength (Mpa):**  
Before aging Min. 14  
After aging at 70°C, 7 days Min. 6N

**Ultimate Elongation %:**  
Before aging Min. 500  
After aging at 70°C, 7 days Min. 400

Size	XS	S	M	L	XL	XXL
Width (±5 mm)	70	80	95	110	120	125
Length (±5 mm)	240	240	240	240	240	240
Thickness						
Cuff (±0.03 mm)	0.07	0.07	0.07	0.07	0.07	0.07
Palm (±0.03 mm)	0.08	0.08	0.08	0.08	0.08	0.08
Finger (±0.05 mm)	0.12	0.12	0.12	0.12	0.12	0.12
Mill	3	3	3	3	3	3

**Nitrile Examination Glove with Allogel® Inner Coating, ULTRA SOFT-STRETCH™, Powder Free, Micro-Textured, Beaded Cuff, Non-Sterile, Magenta™ Color**



← Starflap Size



#### MATERIAL SAFETY DATA SHEET (MSDS): HEALTH HAZARD DATA

The chemical formulation of the gloves and the chlorination process do not contain any substances known to be harmful to the user. You are required to follow any cautionary and warning labels on the product packaging. Some users may be allergic to components used in the manufacturing process. If this is the case, you must immediately stop using this product and consult your medical doctor. These gloves have undergone BIOGARD® tests as recommended by the FDA for Primary Skin Irritation and have been found to be non-irritant and non-sensitizing. For more information, please call us in the USA at 657-587-7719.

### Standards & Certifications & Chemical Composition

ASTM D 6124  
ASTM D 6319  
ASTM D 5151  
ASTM D 412  
ASTM D7329  
ASTM F 1671

Radiol powder in medical gloves  
Nitrile Exam Gloves for medical application  
Detection of holes in medical gloves  
Tension test  
Standard Spec for Food Preparation & Food Handling Gloves  
Vial Penetration



EN 374  
EN 420  
EN 455  
EN 1186  
ISO 2859

Protection from Chemicals & Micro-organisms  
General Requirements for gloves  
EU Medical Glove  
Migration Testing for Food Contact Materials  
Sampling Procedures  
Compliance with relevant US federal regulations for food contact, including Title 21 CFR Section 177.2600

**The Chemical Composition of this glove includes some or all of the following ingredients:**  
Acrylonitrile Butadiene, Potassium hydroxide, Sulfuric, ZINC, ZINC, Titanium dioxide, Zinc Oxide,  
Calcium Carbonate, Calcium Nitrate, Sodium Hydroxide, Lactic Acid, Nitric Acid, Sodium Hypochlorite,  
Ethoxyethyl dry alcohol, NBP sodium salt, Collagen, Alanine, Silicone emulsion, Magenta pigment.

**ORDERING** XS S M L XL XXL

**Item #** ALLOGENA-XS ALLOGENA-S ALLOGENA-M ALLOGENA-L ALLOGENA-XL ALLOGENA-XXL

**Packaging:** XS-L: 100 gloves per box by weight; 10 boxes per case; XL-XXL: 90 gloves per box by weight; 10 boxes per case

**Distributed by:**

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+45 7562 0303

**ASIA**  
eAsia Sdn Bhd  
www.eAsia.asia  
+60 5 808 1115

-3-

**PATENTS & TRADEMARKS:**  
The chemical composition of the gloves and the chlorination process do not contain any substances known to be harmful to the user. You are required to follow any cautionary and warning labels on the product packaging. Some users may be allergic to components used in the manufacturing process. If this is the case, you must immediately stop using this product and consult your medical doctor. These gloves have undergone BIOGARD® tests as recommended by the FDA for Primary Skin Irritation and have been found to be non-irritant and non-sensitizing. For more information, please call us in the USA at 657-587-7719.



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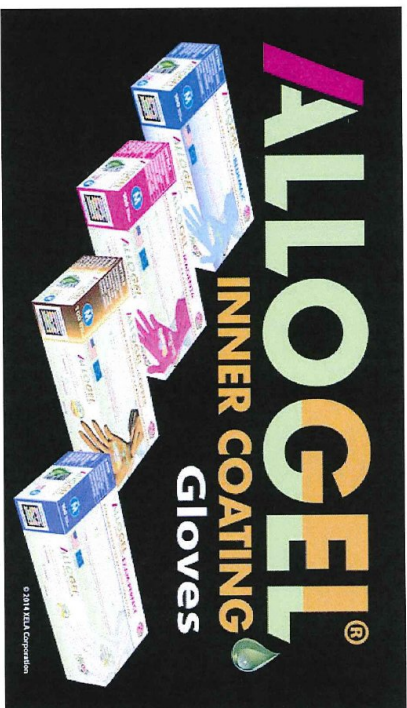
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8/2015

ALLOGEL® Gloves — ALLOGEL®

ALLOGEL®



<http://www.allogelusa.com/gloves>



**VisibleWave**  
distinctive COPPER or MAGENTA™  
color gloves from Preventive Care, Inc.

Finally! The Ultimate Nitrile Glove ... wrap your hands with **AlloGel**® ... your answer to Perfect Hands.


ULTRA-SOFT-STRETCH™ provides excellent comfort and donning, along with superior fit. Unique formulation reduces hand fatigue. Micro-textured finish ensures slip-resistance, wet or dry. Superior tactile sensitivity for medical use such as handling delicate instruments.

**ALLOGEL**® ... caring for your hands with the following ingredients:

... is a product found naturally in many plants including wheat germ, and comfrey roots. An exceptional healing, moisturizing, soothing and anti-irritating agent, the addition of Allantoin to formulations results in softer, suppler skin. Allantoin is also a valuable cell proliferating and healing agent, which stimulates healthy tissue formation by promoting and accelerating the natural cell regeneration processes of the skin.

... is a high purity marine derived product, naturally produced in the marine environment. It is produced via an enzymatic process creating high compatibility with human skin. Collagen improves the moisture content of skin due to its film forming and moisture binding properties. It is effective at all pH levels.

Silicone Polymer has barrier and unique glove donning properties. A thin layer silicone helps separate the skin from the synthetic material of the glove. It also helps to seal in the moisture and known therapeutic properties of Allantoin and Collagen, on to the user's skin.



www.ALLOGEL.it



no product may be stored by us or our processing or hosting providers, including US, from 1/15/2013. European Patent EP01206134-6.1.

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Rosemount, MN 55068, USA  
Tel: +1 877-393-3119  
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**AlloGel<sup>®</sup>**  
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COMING SINCE 1995  
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AlloGel<sup>®</sup> is a registered trademark of AlloGel, Inc. All rights reserved. © 2012

# AlloGel® Coated Gloves

...Naturally, your answer to Perfect Hands!™

NEW Technology PATENT PENDING

Contains Allantoin, Collagen, and Silicone

Provides soft, velvety feel to skin

### Soothing ingredients

**Makes donning gloves easier**

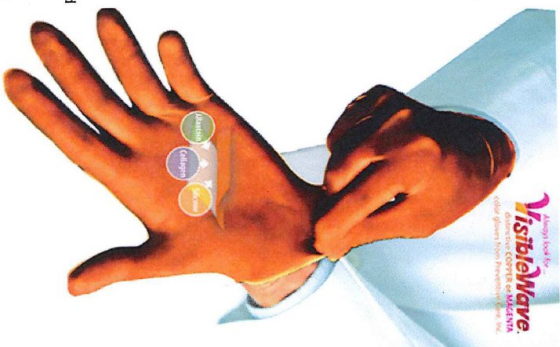


A new generation of ultra soft disposable gloves designed to be exceptionally soft, supple, and elastic... **AlloGel®** Coated Gloves ... for a softer and smoother glove with that extra stretch that slides onto your hand like silk.

**AlloGel®** is an exclusive, proprietary formula created for disposable gloves to provide soothing care to your hands. **AlloGel®** coating helps skin stay soft and supple, improves moisture content of skin, assists with easier glove donning.

Manufactured with Allantoin, Collagen, and Silicone ... resulting in a glove meeting US FDA and EN standards for medical applications, including superior biological protection. **AlloGel®** coating is available on your choice of Nitrile, Latex, Synthetic, and Vinyl gloves.

Patent Pending.



**Available in the Following Colors:**

(roll over buttons to change glove color)

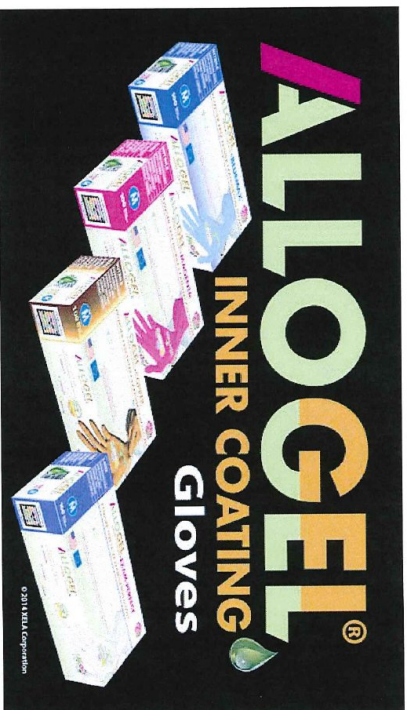


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ALLOGEL® Gloves — ALLOGEL®



<http://www.allogel.us/gloves>

**ALLOGEL<sup>®</sup>**  
INNER COATING  
**MAGENTA™**  
NITRILE-PERFECT<sup>®</sup>



**Nitrile Examination Glove with ALLOGEL® Inner Coating,  
ULTRA SOFT-STRETCH™, Powder Free, Micro-Textured,  
Beaded Cuff, Non-Sterile, MAGENTA™ Color**

	SIZES			
	<b>XS</b>	<b>S</b>	<b>M</b>	<b>L</b>
<b>ALLOGINA-XS</b>				
<b>ALLOGINA-S</b>				
<b>ALLOGINA-M</b>				
<b>ALLOGINA-L</b>				
<b>ALLOGINA-XL</b>				

Packaging: XS-L 100 gloves/box 10 boxes per case. XL 90 gloves/box 10 boxes per case

[illegible]

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8/2/15

ALOGEL® Gives — ALOGEL®

<http://www.alogel.us/gives>

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## ALLOGEL®

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About

Patents & Trademarks

#### PATENTS & TRADEMARKS

Products on this site may be covered by one or more pending or issued patents, including U.S. Patent 8365314 and European Patent (EPO) EP 2 081 454 B1.

ALLOGEL®, ALLOGEL® FIT, ALLOGEL® FIT 1, CLEAN-PERFECT®, Colligel®, Allogen®, EXAM-PERFECT®, ALUM-PERFECT®, MICRO-PERFECT®, NITRAMHITE-PERFECT®, NITRILE-PERFECT®, SAVACARE®, SYNTHO-PERFECT®, TEX-PERFECT®, the cross symbol, PERFECTGLOVES®, PERFECT-GLOVES®, THE PERFECT-FAMILY®, VisibexWave™, the Barcode design, the design of product packaging, the color COPPER® and the color MAGENTA™ are trademarks of their respective owners.

\*\* please note: patents and registered trademarks are specific to regions, countries, states or other defined areas. A specific patent or registered mark is always only assigned to cover a specific limited geographic area. If you wish to obtain the coverage of a mark, please contact [ipxelcorp.com](http://ipxelcorp.com) & request the coverage details for the specific mark(s).

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# PREVENTIVE CARE inc.™

e-mail: [anli@preventivecareinc.com](mailto:anli@preventivecareinc.com)

Tel: 651-322-9170 Fax: 651-322-9196

Preventive Care, Inc.  
15215 Boulder Trail  
Rosemount, MN 55068, USA



*Come Visit Us at ....*

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[www.EMMA.com.my](http://www.EMMA.com.my)  
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Personal Protection & Contamination Control Consumables



[85-005] PCI ALLOGEL® MAGENTA™  
NITRILE POWDER-FREE  
MOISTURIZING EXAM GLOVES

ALLOGEL® COATING INNER KEEPS HANDS HEALTHY  
The Ultimate Single-Use Nitrile Glove. Wrap Your Hands with Soothing Allogel® for Perfect Hands!

1 to 49	\$8.00
50+	\$7.50

Size:    
Quantity: 1



PCI's Patented Allogel® Inner-Coated Color-

Perfect™ Magenta™ Nitrile-Perfect™ Single-Use Nitrile Medical Exam Gloves feature Ultra Soft-Stretched™ and Perfect-Fit™ technology provides excellent comfort and Perfect-Dexterity™, along with superior fit and less hand fatigue. Allogel Inner Coating contains Allantoin, Collagen and Silicone for fresher and healthier hands. Magenta™ Nitrile Exam Gloves provide a very durable barrier and offer very good chemical splash protection. Latex-free, Powder-free, Micro-ban®ed fingertips. Gloves are FDA 510K registered and meet or exceed all current FDA regulations and ASTM Standards. Ideal for Dental, Healthcare, Industrial Safety, Laboratory, 3-mil thickness, Ambidextrous.

Specify size when ordering

click for tech specs

click for sale sheet

Manufacturer: PCI® / Allogel® ALLOGEL-MAGENTA-XS/M/L/XL/XL

Packed: 100 per dispenser box (10 boxes per carton)

- PERSONAL PROTECTION >
- CONTAMINATION CONTROL >
- CONSUMABLES >
- MISCELLANEOUS >

NO CC REQUIRED

Our shipping cart does not require a credit card for online orders. However, we do require a credit card for all other orders. Information is placed with us. See Terms of Sale for more information. Thank You.

REQUEST A SAMPLE

Ask us a question about this product:

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Question:

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Nitrile Exam Gloves  
Powder-Free  
\$ 10.65



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Nitrile Exam Gloves  
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Powder-Free  
\$ 5.69



[85-2816] PCI  
HeliGuard™  
Nitrile Exam Gloves  
Lavender  
Powder-Free  
\$ 15.99

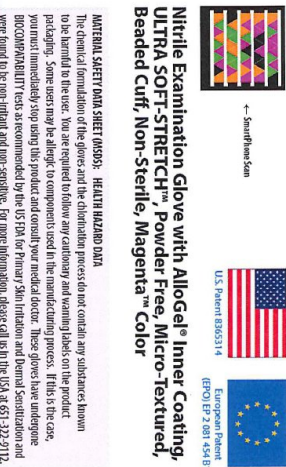


[85-004] PCI  
Allogel®  
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Nitrile Exam Gloves  
Moisturizing  
Powder-Free  
\$ 8.00



[85-870] PCI  
Cashmere  
Nitrile Exam Gloves  
Powder-Free  
\$ 4.39

**NITRILE-PERFECT®**



CONCEPT SINCE 1993  
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EN-455

**Before aging**

Min. 14 Min. 6N

Before aging

Min. 400

Size	XS	S	M	L	XL	XXL
Width (±5 mm)	70	80	95	110	115	125
Length (±5 mm)	240	240	240	240	240	240
Thickness						
Cuff (±0.03 mm)	0.07	0.07	0.07	0.07	0.07	0.07
Palm (±0.03 mm)	0.08	0.08	0.08	0.08	0.08	0.08
Finger (±0.05 mm)	0.12	0.12	0.12	0.12	0.12	0.12
MM	3	3	3	3	3	3

ASTM D 6124	Residual powder in medical gloves
ASTM D 6319	Nitrile Exam gloves for medical application
ASTM D 5151	Detection of holes in medical gloves
ASTM D 412	Tension test
ASTM F 1671	Viral Penetration

### Viral Penetration


 Complies with the Class I requirements  
 of the European Medical Device Directive  
 Class I  

 Not Made with  
 Latex Rubber  

 Complies with ISO 13485:2003  
 European Medical Device Directive  


 EN 374-5:2005

**The Chemical composition of this glove includes some or all of the following ingredients:** Acrylonitrile Butadiene, Potassium Hydroxide, Sulphur, ZDHC, ZDEC, Titanium Dioxide, Zinc Oxide, Calcium Carbonate, Calcium Nitrate, Sodium Hydroxide, Lauric Acid, Nitric Acid, Sodium Hypochlorite, Ethoxyate fatty alcohol, NSF sodium salt, Collagen, Allantoin, Silicone Emulsion, Magent a pigment

**Distributed by:**

**Packaging:** XS-L: 100 gloves per box by weight; 10 boxes per case; XL-XXL: 90 gloves per box by weight; 10 boxes per case

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[www.PerfectGloves.com](http://www.PerfectGloves.com)  
+1 651 322 9199

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**www.EuroDispo.eu**  
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**ASIA**  
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**www.eXAsia.asia**  
**+60 5 808 1115**

-4-

The product has been covered by our main portfolio of issued patents, including US Patent 8,839,741. European Patent 01/024,100 is also pending.



## SPRING 2015 Price Guide

**Our Reputation is Your Total Guarantee!**

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• All Prices Include Freight •

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Hamden, CT 06517  
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Fax: 800-991-9993

**ISI** distinctive COPER® or MAGENTA™ color gloves from Preventive Care, Inc.

Finally! The Ultimate Nirvle Glove... wrap your hands with soothing **AlloGel**®... your answer to Perfect Hands.

ULTRA-SOFT-STRETCH™ provides excellent comfort and donning, along with superior fit. Unique formulation reduces hand fatigue. Micro-textured finish ensures slip-resistance, wet or dry. Superior tactile sensitivity for medical use such as handling delicate instruments.

**ALLOGEL**  
INNER COATING

- Collagen

**ALLOGEL**  
INNER COATING

Naturally, your answer to Perfect Hands!<sup>TM</sup>

Made with PERFECT-ON<sup>TM</sup> TECHNOLOGY

Perfect-Don<sup>TM</sup> • Perfect-Fit<sup>TM</sup> • Ultra Soft-Stretch<sup>TM</sup> • Color-Perfect<sup>TM</sup>

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**www.ALLOGEL.it**



**PATENTS & TRADEMARKS:**

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U.S. Patent 8365314



European Patent  
(EPO) EP 2 081 454 B



**www.AlloGel.us**  
*AlloGel® coating ... eating for your hands.*

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## STATEMENT AND DECLARATION

GLOVE COLOR MAGENTA

Ser. No. 78/694721

My name is Art Stengel, and I am the owner and CEO of Dart Dental Supply in Hamden, Connecticut. I make this declaration of my own personal knowledge. I am familiar with Preventive Care, Inc. (PCI) and the disposable examination gloves it offers for sale; my company purchases gloves from PCI for resale in the New England area, and has done so since 1998.

In 2004, our company started stocking and reselling gloves from PCI that were colored the same "Magenta" color as had been used on boxes and in advertising by PCI.

"Magenta gloves" have come to mean, in the office, and among some of our customers, the gloves from PCI. When they ask for the "Magenta gloves," they mean the distinctive-looking gloves from PCI. Color is not functional in examination gloves, so it is a way of distinguishing PCI's gloves from its competitors.

I declare that statements made are true, and all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code.

November 14, 2007

  
\_\_\_\_\_  
/Art Stengel/

## STATEMENT AND DECLARATION

GLOVE COLOR MAGENTA

Ser. No. 78/694721

My name is Sharyl Peggs, and I am the Purchasing Manager for ICP Inc/dba: Dental City in Green Bay, Wisconsin. I make this declaration of my own personal knowledge. In my job, I have become familiar with the gloves sold by PCI as well as other companies.

My company has been a purchaser and wholesaler of the disposable examination gloves of Preventive Care, Inc. (PCI) since 1998. PCI has used the color "Magenta" on its dispenser boxes and in corporate communications and advertising for many years. In 2004, my company started purchasing gloves from PCI for resale that were colored the same "Magenta" color as an additional method to distinguish PCI's gloves from those of competitors.

These "Magenta" gloves became and are popular, especially among the customers in one of our principal markets: dental offices. Customers will often ask for the "Magenta gloves" in placing an order, meaning the magenta-colored gloves by PCI. They are a distinctive product in the minds of many of our customers. [70 customers monthly]

"Magenta gloves" is also a short hand in our office for these gloves sold by Preventive Care, Inc.

I declare that statements made are true, and all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code.

November 14, 2007

  
/Sharyl Peggs/